

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LION RAISINS, INC.,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
AGRICULTURE,

Defendant.

1:08-CV-00358-OWW-SMS

ORDER RE: PENDING MOTIONS
FOR SUMMARY JUDGMENT (Docs.
43, 45, 58)

On July 10, 2009, a Memorandum Decision and Order was issued with respect to cross-motions for summary judgment filed by Plaintiff Lions Raisins, Inc. and Defendant United States Department of Agriculture. (Doc. 56.) Plaintiff's motion was denied, and Defendant's motion was denied in part and granted in part. With respect to Count IV in Plaintiff's complaint, however, a ruling on the cross-motions was deferred pending a certification from Defendant that it had produced all responsive worksheets. (Doc. 56 at 63-64.)¹

After the Memorandum Decision and Order, Defendant submitted a declaration from David Trykowski regarding the status of the production of the worksheets relating to Count IV. (Doc. 57-2.) Subsequently, Plaintiff filed a renewed motion for summary judgment as to Count IV. (Doc. 58.) Plaintiff's renewed motion for summary judgment pertains to Trykowski's declaration and his/Defendant's search for responsive records. Defendant opposes the motion and requests that summary judgment be granted in its favor on Count IV.

¹ Count IV relates to Plaintiff's FOIA Request No. 85-04.

1 (Doc. 59.) The hearing date on the renewed motion is currently
2 scheduled for May 3, 2010.

3 Given the continued litigation over Count IV, any of
4 Plaintiff's and Defendant's remaining issues as Count IV, and the
5 propriety of summary judgment in favor of either party on Count IV,
6 will be resolved in the context of the renewed motion for summary
7 judgment. (Doc. 58.) As to the previously filed cross-motions for
8 summary judgment (Docs. 43 and 45), those motions are DENIED as to
9 Count IV.

10 SO ORDERED

11 Dated: March 31, 2010

12 /s/ Oliver W. Wanger
13 Oliver W. Wanger
14 United States District Court
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